

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA

Plaintiff,

v.

JAMES DAVID ALLEN, II.,

Defendant.

Case No. CR10-322-TSZ

DETENTION ORDER

Offenses charged:

Felon in Possession of a Firearm and Possession of a Weapon Made from a Shotgun.

Date of Detention Hearing: September 4, 2012.

The Court, having conducted a detention hearing pursuant to Title 18 U.S.C. § 3142(f), and based upon the factual findings and statement of reasons for detention hereafter set forth, finds that no condition or combination of conditions which the defendant can meet will reasonably assure the appearance of the defendant as required and the safety of any other person and the community.

FINDINGS OF FACT AND STATEMENT OF REASONS FOR DETENTION

In 2011, defendant pled guilty reserving the right to appeal. He appealed and the Court of Appeals for the Ninth Circuit remanded the matter. Defendant argues he should be released

1 because he will prevail at the Franks hearing the Court has scheduled, has found religion and
2 turned over a new leaf, has relatives who are supportive or release, and because he needs and
3 will benefit from supervision. The government disagreed with the defendant' assessment
4 regarding the issue of the Franks hearing and argued that since the Court initially ordered
5 defendant detained in 2010, very little has changed to merit release. Although the strength and
6 weakness of a case is a factor the court considers, it is a factor carrying the least weight. The
7 Court finds despite the positives the defense pointed out in argument, defendant nonetheless
8 presents a serious risk to the safety of the community and risk of flight. Defendant has an
9 extremely long criminal history including crimes of violence, and drug and alcohol related
10 offenses. He has a significant history of substance abuse problems. He has failed to appear for
11 past court appearances on numerous occasions.

12 It is therefore **ORDERED**:

13 (1) Defendant shall be detained pending trial and committed to the custody of the
14 Attorney General for confinement in a correctional facility separate, to the extent practicable,
15 from persons awaiting or serving sentences, or being held in custody pending appeal;

16 (2) Defendant shall be afforded reasonable opportunity for private consultation with
17 counsel;

18 (3) On order of a court of the United States or on request of an attorney for the
19 Government, the person in charge of the correctional facility in which Defendant is confined
20 shall deliver the defendant to a United States Marshal for the purpose of an appearance in
21 connection with a court proceeding; and

22 (4) The Clerk shall direct copies of this order to counsel for the United States, to
23 counsel for the defendant, to the United States Marshal, and to the United States Pretrial Services

1 Officer.

2 DATED this 4th day of September, 2012.

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5 BRIAN A. TSUCHIDA
6 United States Magistrate Judge
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